

Message Text

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ACTION L-03

INFO OCT-01 EUR-12 ISO-00 DRC-01 DODE-00 /017 W
-----050726 091402Z /64

R 091337Z MAY 78
FM AMEMBASSY BONN
TO SECSTATE WASHDC 8350

LIMITED OFFICIAL USE SECTION 01 OF 02 BONN 08511

DEPARTMENT FOR L/M BURMAN; L/EUR GANTZ

E. O. 11652: N/A
TAGS: AFSP, AINF, GW, WB, AKB
SUBJECT: INCOME AND FICA TAX LIABILITY OF US CITIZENS
AND RESIDENT ALIENS - BERLIN OCCUPATION COST
EMPLOYEES

USCOB BERLIN MESSAGE 051400Z MAY 78 IS REPEATED FOR
YOUR INFORMATION.

QUOTE: A. SECDEF MSG, GC, 130023Z JAN 78, SUBJECT AS
ABOVE.
B. CINCUSAREUR MSG, AEAJA-IA, 131525Z APR 78, SUBJECT
AS ABOVE.

1. ON 2 MAY A MEETING WAS HELD, AT THIS HEADQUARTERS,
WITH DR. SPENCER, IRS ATTACHE, BONN, AND REPRESENTATIVES
OF THE US MISSION AND 7350TH ABG. THE PURPOSE OF THE
MEETING WAS TO WORK OUT THE PROCEDURES FOR THE RELEASE
OF SALARY INFORMATION AS AUTHORIZED BY REF A AND B.

2. AT, AND SUBSEQUENT TO, THE MEETING, CERTAIN DIFFI-
CULTIES WITH THE RELEASE OF THE DATA WERE IDENTIFIED.

B. THE SALARY INFORMATION MAINTAINED BY BOTH THE ARMY
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AND AIR FORCE FINANCE AND ACCOUNTING OFFICES IS A COPY
OF THE OFFICIAL PAYROLL RECORDS OF THE OCCUPATION COST
OFFICE, AN INSTRUMENTALITY OF THE BERLIN SENAT.
CORRECTIONS TO THE PAYROLL ARE NOT SUBMITTED BY LINE TO
US FAOS, BUT RATHER AS A SUMMARY SHEET THAT CANNOT BE
USED TO UPDATE US FILE COPIES. THUS, DATA MAINTAINED BY
US FAOS IS INACCURATE, THOUGH THE DEGREE OF INACCURACY

CANNOT BE DETERMINED.

C. THERE IS A DIFFERENCE IN TAX STATUS BETWEEN US DEPENDENTS THAT ARE RESIDENT ALIENS AND THOSE THAT ARE NON-RESIDENT ALIENS. NON-RESIDENT ALIENS ARE NONTAXABLE AND INFORMATION ON THESE INDIVIDUALS HIRED AS LOCAL NATIONALS (LNS) IS NOT REQUIRED BY IRS. HOWEVER, OUR RECORDS DO NOT INDICATE THE RESIDENCY STATUS OF NON-US CITIZENS, THEREFORE THIS HEADQUARTERS CANNOT DETERMINE THE RELEASABILITY OF DATA ON SUCH INDIVIDUALS THAT POSSIBLY SHOULD PAY TAXES, I.E. RESIDENT ALIENS.

C. CIVILIAN PERSONNEL DIVISION, THIS HEADQUARTERS, HAS ONLY BEEN COLLECTING SOCIAL SECURITY NUMBERS FOR US DEPENDENTS, HIRED TO FILL LN POSITIONS, SINCE 11 MARCH 1977. ADDITIONALLY, RECORDS ON LN HIRES ARE ONLY MAINTAINED FOR TWO YEARS AFTER THE TERMINATION OF THEIR EMPLOYMENT, WHICH MAY RESULT IN SOME DATA GAPS FOR THE YEAR OF 1974.

3. DR. SPENCER STATED THAT THE SALARY DATA WAS AN ADMINISTRATIVE REQUIREMENT FOR HIS REPORT AND WAS NOT ACTUALLY NECESSARY FOR THE POLICY DETERMINATION OF WHETHER US DEPENDENT LN HIRES ARE USG OR ALLIED

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TO SECSTATE WASHDC 8351

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KOMMANDATURA EMPLOYEES. DR. SPENCER'S CURRENT POSITION, AND HIS ANTICIPATED RECOMMENDATION TO HIS HEADQUARTERS, IS THAT THEY ARE USG EMPLOYEES.

4. REQUEST GUIDANCE ON THE RELEASABILITY OF PERSONNEL DATA FOR US DEPENDENTS THAT ARE NOT US CITIZENS (SINCE WE CANNOT DIFFERENTIATE BETWEEN RESIDENT AND NONRESIDENT ALIENS) AND ARE EMPLOYED IN LN POSITIONS.

5. PENDING RECEIPT OF GUIDANCE REQUESTED IN PARA 4, THE FOLLOWING PROCEDURES HAVE BEEN AGREED TO:

A. DR. SPENCER IS TO RECOGNIZE THAT SALARY DATA IS INACCURATE SINCE THE PAYROLL BELONGS TO THE OCCUPATION COST OFFICE, AN INSTRUMENTALITY OF THE BERLIN SENAT, AND THAT RELEASING FAOS CANNOT BE HELD RESPONSIBLE FOR INACCURACIES AS THEY DO NOT CONTROL THE DATA BASE.

B. CPD AND THE FAOS WILL ONLY RELEASE NAME, SOCIAL SECURITY NUMBER AND SALARY INFORMATION ON US CITIZENS THAT ARE FILLING LN POSITIONS.

6. BY SEPARATE LETTER, DR. SPENDER HAS REQUESTED THAT THIS HEADQUARTERS' FAO FILE 1099-MISC FORMS ON PERSONNEL LIMITED OFFICIAL USE

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HIRED ON NONPERSONAL SERVICE CONTRACTS. THIS HEADQUARTERS DOES NOT USE NONPERSONAL SERVICE CONTRACTS, BUT RATHER REQUISITION ORDER DEMANDS. PERSONNEL SO HIRED ARE PAID IN MARKS UNDER THE SAME PROCEDURES AS LN HIRES. AS A RESULT, IT IS UNCLEAR WHETHER SECTION 6041 OF TITLE 26, USC APPLIES. DR. SPENCER'S REQUEST WILL NOT BE HONORED UNTIL APPROVED BY YOUR HEADQUARTERS.

7. RECOMMEND THIS INFORMATION BE FORWARDED TO DOD AND DEPARTMENT OF STATE.

8. USBER CONCURS. END QUOTE
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